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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 EASTERN DIVISION

13 STACI SMITH, an individual,  
14 Plaintiff,

15 vs.

16 MINNESOTA LIFE INSURANCE  
COMPANY, a Minnesota company; and  
DOES 1 through 50, inclusive,  
17 Defendants.

Case No. \_\_\_\_\_

[Removal from Superior Court of  
California, County of Riverside, Case  
No. MCC1401332]

**DEFENDANT MINNESOTA LIFE  
INSURANCE COMPANY'S NOTICE  
OF REMOVAL OF ACTION  
PURSUANT TO 28 UNITED STATES  
CODE SECTIONS 1332, 1441 AND  
1446**

**[DIVERSITY OF CITIZENSHIP]**

20 Compl. Filed: September 19, 2014  
21 Compl. Served: August 4, 2015  
22 Trial Date: None set

23 [Filed concurrently with Civil Cover  
24 Sheet; Declaration of Kathy J. Huang;  
25 Notice of Interested Parties; and  
26 Corporate Disclosure Statement]

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE**  
 2 **CENTRAL DISTRICT OF CALIFORNIA:**

3  
 4 **PLEASE TAKE NOTICE THAT** defendant Minnesota Life Insurance  
 5 Company ("Minnesota Life") hereby removes this action from the Superior Court of  
 6 the State of California, County of Riverside, to the United States District Court for the  
 7 Central District of California – Eastern Division, pursuant to 28 U.S.C. §§ 1332, 1441  
 8 and 1446 (Diversity of Citizenship). The removal of this action is based on the  
 9 following:

10 **FACTUAL AND PROCEDURAL BACKGROUND**

11  
 12 1. On September 19, 2014, Plaintiff Staci Smith ("Plaintiff") filed a  
 13 complaint for damages ("Complaint") against Minnesota Life in the Superior Court of  
 14 the State of California for the County of Riverside entitled *Staci Smith v. Minnesota*  
 15 *Life Insurance Company and Does 1 through 50, inclusive*, Case No. MCC1401332  
 16 (hereinafter, the "State Court Action"). (True and correct copies of the Summons,  
 17 Complaint, Notice of Department Assignment and Case Management Conference, and  
 18 Certificate of Counsel are attached hereto as Exhibit 1.)

19 2. The Complaint alleges a cause of action for breach of contract based on a  
 20 purported failure to pay death benefits on a mortgage accidental death policy.

21 3. Minnesota Life was served *via* process server with copies of the  
 22 Summons and Complaint in the State Court Action on August 4, 2015. (A true and  
 23 correct copy of the Service of Process Transmittal form is attached hereto as Exhibit  
 24 2.)

25 4. The Complaint was the first pleading, notice, order, or other paper from  
 26 which it could be ascertained that this action is removable.  
 27  
 28

1           5.     A Case Management Conference is scheduled for September 22, 2015, at  
2 8:30 a.m. in Department S303 of the Riverside Superior Court where Plaintiff is  
3 ordered to appear and show cause why dismissal or sanctions should not be imposed  
4 for failure to file a proof of service. (A true and correct copy of the docket is attached  
5 hereto as Exhibit 3.)

6           6.     There have been no further proceedings in the State Court Action, and no  
7 other pleadings have been filed or served by or on Plaintiff or Minnesota Life other  
8 than those attached hereto as Exhibits 1-3.

9           7.     This Notice of Removal is timely in that it was filed within thirty (30)  
10 days after service of the Summons and Complaint on Minnesota Life. *See* 28 U.S.C. §  
11 1446(b).

### 12                               SUMMARY OF COMPLAINT

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14           8.     The Complaint alleges a cause of action for breach of contract for  
15 Minnesota Life's denial of a claim for benefits on a mortgage accidental death  
16 insurance policy issued to Walter J. Smith. *See* Complaint, BC-2. According to the  
17 Complaint's allegations, upon the death of Mr. Smith, the benefits were to be paid  
18 either to Wells Fargo Home Mortgage to satisfy the balance on Mr. Smith's home  
19 loan or to his named beneficiary if the loan has been discharged by refinancing,  
20 prepayment or any other means. *Id.*, ¶ BC-1.

21           9.     The Complaint alleges damages in the amount of \$234,739.00 and  
22 attorneys' fees and costs according to proof. *Id.*, ¶ 10.

### 23                               JURISDICTION

24  
25           10.    This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1332  
26 and 1441 because this is a civil action in in which the amount in controversy exceeds  
27 the sum of \$75,000.00, exclusive of costs and interest, and where the only parties are  
28 citizens of different states.

**DIVERSITY OF CITIZENSHIP**

11. There is complete diversity between Plaintiff and Minnesota Life.

12. **Plaintiff:** Upon information and belief, Plaintiff is a resident of the County of Riverside in the State of California where the Complaint was filed and resided there at the time of commencement of this action. *See* Declaration of Kathy J. Huang (“Huang Decl.”), ¶ 2, Ex. 1; *see also* Ex. 1, Certificate of Counsel. As such, Plaintiff is a citizen of the state of California.

13. **Defendant Minnesota Life:** At the time of commencement of this action, Minnesota Life was and still is a Minnesota corporation with its principal place of business in St. Paul, Minnesota. *See* Huang Decl., ¶ 3; *see also Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1186 (2010) (a corporation’s “principal place of business” for purposes of determining its citizenship for federal diversity jurisdiction is ordinarily its corporate headquarters, or the location where the corporation’s activities are directed, controlled, or coordinated (the corporate “nerve center”)). Although Minnesota Life does business throughout the United States and has agents in every state, all of its main business decisions are made at its national corporate headquarters in St. Paul, Minnesota. *See* Huang Decl., ¶ 3. As such, Defendant Minnesota Life is a citizen of the state of Minnesota.

14. **Does 1-50:** Upon information and belief, none of the Doe defendants have been substituted with any named defendants or been served with process in the State Court Action. For purposes of removal, “the citizenship of defendants sued under fictitious names shall be disregarded.” 28 U.S.C. § 1441(b); *accord Soliman v. Phillip Morris, Inc.*, 311 F.3d 966, 971 (9th Cir. 2002); *McCabe v. General Foods Corp.*, 811 F.2d 1336, 1339 (9th Cir. 1987). Therefore, the citizenship of Does 1-50 should not be considered for purposes of determining diversity jurisdiction.

**AMOUNT IN CONTROVERSY**

15. It is apparent from the plain face of the Complaint that Plaintiff seeks an

1 amount in controversy in excess of \$75,000, excluding interest and costs. *See*  
2 Complaint, ¶10 (“Plaintiff prays for judgement for costs of suit, for such relief as is  
3 fair, just, and equitable; and for damages of: \$234,739.00, interest on the damages  
4 according to proof and attorneys’ fees according to proof.”).

### 5 6 VENUE

7 16. The Riverside Superior Court is located within the United States District  
8 Court for the Central District of California – Eastern Division. *See* 28 U.S.C. §  
9 84(c)(2). Thus, venue is proper in this Court because it is the “district and division  
10 embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

### 11 COMPLIANCE WITH 28 U.S.C. § 1446

12 17. This Notice of Removal is timely in that it is filed within thirty (30) days  
13 of the service of the Summons and Complaint on Minnesota Life. *See* 28 U.S.C. §  
14 1446(b).

15 18. No previous application has been made for the relief requested herein.

16 19. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and  
17 orders served on Minnesota Life, including the Complaint and Summons, is attached  
18 and being filed as Exhibits 1-3 with this Notice of Removal.

19 20. Pursuant to 28 U.S.C. § 1446(d), Minnesota Life will serve on Plaintiff  
20 and will file with the Clerk of the Superior Court for the County of Riverside, a  
21 written “Notice to the Clerk of the Superior Court of the County of Riverside and To  
22 Adverse Parties of Filing of Notice of Removal of Civil Action to Federal Court,”  
23 attaching a copy of this Notice of Removal and all supporting papers.

24 21. Pursuant to the applicable provisions of 28 U.S.C. § 1441 and other  
25 applicable statutes that Minnesota Life has complied with, this Complaint is  
26 removable to the United States District Court for the Central District of California –  
27 Eastern Division.  
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1       **WHEREFORE**, Minnesota Life respectfully removes this action from the  
2 Superior Court of the State of California for the County of Riverside to the United  
3 States District Court for the Central District of California – Eastern Division pursuant  
4 to 28 United States Code sections 1332, 1441 and 1446.

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7  
8 DATED: September 1, 2015

REED SMITH LLP

9  
10 By /s/ Kathy J. Huang  
11 Robert D. Phillips, Jr.  
12 Kathy J. Huang  
13 Attorneys for Defendant  
14 Minnesota Life Insurance Company  
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REED SMITH LLP  
A limited liability partnership formed in the State of Delaware